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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,880	11/26/2003	Clayton M. Williams JR.	2936.001	9334

7590

03/15/2005

B. Craig Killough
Barnwell Whaley Patterson & Helms, LLC
P.O. Drawer H
Charleston, SC 29402-0197

EXAMINER

NGUYEN, KIEN T

ART UNIT PAPER NUMBER

3714

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SN

Office Action Summary	Application No. 10/723,880	Applicant(s) WILLIAMS, CLAYTON M.	
	Examiner Kien T. Nguyen	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 10, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Scalf U.S. Patent 880,156.

Scalf disclosed a cradle or swing comprising a swing or seat (27) that is suspended by at least two chains or links (28) (page 1, lines 54-56); a sail (31) that is laterally disposed between two chains and above the swing, wherein a large plane of the sail is positioned generally vertically when the swing is static (applicant's claim 1). The large plane of the sail is comprised of fabric (page 1, line 64-65) (applicant's claim 3). The swing of Scalf could be a bench type or lawn swing (38) (Fig. 4) and providing seating for at least two people (applicant's claim 10). The sail is laterally disposed between the chains, above the swing and below a member (6) from which the chains are suspended.

Claims 1, 2, 10, 11, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith U.S. Patent 5,766,084.

Smith disclosed a swing comprising a swing seat (13) that is suspended by at least two chains (11, 12) (see column 3, lines 26-30); a sail (27) that is laterally disposed between the chains and above the swing, wherein a large plane of the sail is positioned generally vertically when the swing is static (applicant's claim 1). The first

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end of the sail is attached to a first of the at least two chains and a second end of the sail is attached to a second of the at least two chains (applicant's claim 2). The swing is a bench type swing and providing seating for at least two people (applicant's claim 10). The sail is laterally disposed between the chains and above the swing and below a member (not shown) from which the chains are suspended (applicant's claim 11). The sail extends horizontally across an entire distance between the chains (12) (applicant's claim 12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6, 10-12, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nix U.S. Patent 743,546.

Nix disclosed a swing (1) that is suspended by at least two ropes (8); a sail (14) that is laterally disposed between the ropes and above the swing, wherein a large plane of the sail is positioned vertically when the swing is static (applicant's claim 1). A first end of the sail is attached to a first of the at least two ropes and a second end of the sail is attached to a second of the at least two ropes (applicant's claim 2). A substantial portion of the sail is generally rectangular (applicant's claim 4). The sail is mounted to one of the at least two ropes near a left upper side of the sail, and near a left lower side of the sail, and wherein the sail is mounted to a second of the at least two ropes near a

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right upper side of the sail and near a right lower side of the sail (applicant's claim 5).

The sail is mounted to each of the at least two ropes at two points (applicant's claim 6).

The swing is a bench type swing and it could provide seating for at least two people or

babies (applicant's claim 10). The sail is laterally disposed between the ropes, above

the swing, and below a member (9) from which the two ropes are suspended

(applicant's claim 11). The sail extends horizontally across substantially an entire

distance between the ropes (applicant's claim 12).

It is noted that Nix disclosed the suspending members as ropes instead of chains as set forth in these claims. However, both ropes and chains are fairly flexible and conventionally could be used interchangeably in a swing. Accordingly, it would have been a matter of design choice to substitute the rope of Nix with any equivalent suspended member such as a chain.

Allowable Subject Matter

Claims 7-9, 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

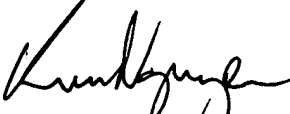
Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kien T. Nguyen
Primary Examiner
Art Unit 3714

Ktn